

Message Text

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ACTION EB-07

INFO OCT-01 EA-10 ISO-00 SP-02 AID-05 NSC-05 RSC-01

CIEP-02 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00

COME-00 FRB-01 INR-07 NSAE-00 XMB-04 OPIC-06 LAB-04

SIL-01 IO-10 L-02 /089 W
----- 125003

R 200130Z DEC 74

FM AMCONSUL PORT MORESBY

TO SECSTATE WASHDC 209

INFO AMEMBASSY CANBERRA

AMEMBASSY JAKARTA

AMEMBASSY SUVA

AMEMBASSY WELLINGTON

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PASS COMMERCE AND OPIC

E.O. 11652: NA

TAGS: EINV PP

SUBJECT: GPNG ESTABLISHES NATIONAL INVESTMENT AND
DEVELOPMENT AUTHORITY (NIDA)

1. SUMMARY: THE CREATION OF THE NATIONAL INVESTMENT AND DEVELOPMENT AUTHORITY (NIDA) WHICH WAS PASSED IN THE FINAL SESSION OF THE HOUSE OF ASSEMBLY AND GAZETTED DECEMBER 6, 1974, WILL HAVE A PROFOUND IMPACT ON FOREIGN INVESTMENT, BOTH PRESENT AND FUTURE, IN PAPUA NEW GUINEA. LOCAL POLITICIANS OF ALL STRIPES, INDIGENOUS AND EXPATRIATE, HAILED THE CREATION OF NIDA AS A MEANS OF CONTROLLING FOREIGN DEVELOPMENT AND ENCOURAGING LOCALIZATION IN AREAS WHERE PAPUA NEW GUINEANS CAN EFFECTIVELY PARTICIPATE. LOCAL BUSINESSMEN, HOWEVER, RAISED A STORM OF PROTEST WITH SOME PREDICTING THAT NIDA'S EMERGENCE MARKED THE END OF PAPUA NEW GUINEA'S HOSPITABLE ATTITUDE

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TOWARD FOREIGN INVESTMENT. END SUMMARY.

2. PURPOSE: THE NATIONAL INVESTMENT AND DEVELOPMENT AUTHORITY, ACCORDING TO GAVERA REA, MINISTER FOR NATIONAL DEVELOPMENT, IS TO QTE PROVIDE FOR THE REGISTRATION, CONTROL AND PROMOTION OF INVESTMENT, PARTICULARLY FOREIGN INVESTMENT, IN THE INTERESTS OF NATIONAL DEVELOPMENT. UNQTE. IT IS ALSO DESIGNED TO BE THE COORDINATING INSTRUMENT WITHIN THE GPNG. PREVIOUSLY, THERE WAS VIRTUALLY NO CONTROL OVER THE ENTRY AND OPERATIONS OF FOREIGN ENTERPRISES. PROPOSALS FROM FOREIGN ENTERPRISES WERE GENERALLY IN THE PAST DEALT WITH ON AN AD HOC BASIS WITH NO REAL CONCEPT OF PRIORITIES OR AIMS. ACCORDING TO CHIEF MINISTER MICHAEL SOMARE, THIS QTE MEANT A CURSORY EVALUATION OF INVESTMENT PROPOSALS OR INEFFECTIVE COORDINATION OF NEGOTIATIONS WITH FOREIGN INVESTORS UNQTE. NOR WAS THERE AN EFFECTIVE MECHANISM FOR SUPERVISING THE OPERATIONS OF FOREIGN ENTERPRISES ONCE ESTABLISHED TO ENSURE THAT TERMS AND CONDITIONS OF AGREEMENTS WERE KEPT. WITH THE ADVENT OF THE SOMARE GOVERNMENT AND THE EIGHT POINT PLAN FOR DEVELOPMENT, INCREASING ATTENTION HAS BEEN DIRECTED TO THESE PROBLEMS. EXISTING DEPARTMENTS, OFTEN STAFFED BY EXPATRIATES USED TO A LAISSEZ FAIRE ATTITUDE TOWARD INVESTMENT, HAVE NOT PROVIDED THE KIND OF DIRECTION AND CONTROL DESIRED BY THIS GENERATION OF PNG POLITICIANS. THE RESULT HAS BEEN THE CREATION OF NIDA, A QTE SUPER DEPARTMENT UNQTE WHICH, IF EFFECTIVE, WILL BRING ABOUT A UNIFORM APPROACH TOWARD NATIONAL DEVELOPMENT AND FOREIGN INVESTMENT.

3. STRUCTURE: NIDA IS A STATUTORY AUTHORITY WHOSE POLICIES ARE SET BY A CABINET COMMITTEE CHAIRED BY THE MINISTER OF FINANCE. IT HAS A BOARD OF DIRECTORS WITH A FULL-TIME SECRETARIAT. THE SECRETARY OF THE DEPARTMENT OF LABOR, KIPLING UIARA, HAS BEEN APPOINTED CHAIRMAN OF THE BOARD OF NIDA. THE BOARD ITSELF HAS ELEVEN MEMBERS REPRESENTING DEPARTMENTS AND STATUTORY BODIES INVOLVED IN INVESTMENT. THEY ARE: NIDA EXECUTIVE DIRECTOR, TOM ALLEN, THE DIRECTOR OF THE CENTRAL PLANNING OFFICE, THE MANAGING DIRECTOR OF THE DEVELOPMENT BANK, THE MANAGING DIRECTOR OF THE

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INVESTMENT CORPORATION, THE SECRETARY OF THE DEPARTMENT OF FINANCE, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, STOCK AND FISHERIES, THE DIRECTOR OF FORESTS, THE SECRETARY OF THE DEPARTMENT OF FOREIGN RELATIONS AND TRADE, THE ACTING DIRECTOR OF LANDS, SURVEYS AND MINES, AND THE SECRETARY OF THE DEPARTMENT OF BUSINESS DEVELOPMENT.

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4. A. POWERS: NIDA HAS FAR REACHING POWERS WHICH INCLUDES AUTHORITY TO REGISTER ALL BUSINESSES MORE THAN 26 PERCENT FOREIGN OWNED NOW OPERATING IN PNG AND IF THEY DO NOT MEET INVESTMENT GUIDELINES TO QTE PHASE THEM OUT UNQTE OVER A PERIOD OF TIME. IT WILL ALSO COORDINATE ALL NEW FOREIGN INVESTMENT AND REVIEW ALL NEW CONTRACTS AND AGREEMENTS IN ASSOCIATION WITH THE VARIOUS DEPARTMENTS OF THE GOVERNMENT. NO TRANSFERS OF OWNERSHIP MAY BE MADE WITHOUT NIDA PERMISSION. ALL NEW ENTERPRISES MUST BE REGISTERED THROUGH NIDA. NO ENTERPRISE MAY INITIATE NEW ACTIVITIES WITHOUT PRIOR NIDA APPROVAL. IT HAS THE POWER TO CANCEL REGISTRATION QTE IN CASES OF CIRCUMVENTION OF THE TERMS AND CONDITIONS OF REGISTRATION BY A FOREIGN ENTERPRISE UNQTE. ALTHOUGH PROVISIONS FOR APPEAL IS PROVIDED FOR WHEN CANCELLATION OF REGISTRATION OCCURS, THE ENTIRE PROCESS TAKES PLACE WITHIN THE PNG LEGAL STRUCTURE. INTERNATIONAL ARBITRATION IS NOT ALLOWED FOR AND ONCE CANCELLATION TAKES PLACE, THE ENTERPRISE MUST TERMINATE ITS

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ACTIVITIES.

B. NIDA ALSO HAS THE POWER TO REGULATE AGREEMENTS AND ARRANGEMENTS BETWEEN A FOREIGN ENTERPRISE AND ANOTHER PARTY WHICH ARE LONGER THAN TWELVE MONTHS AND INVOLVE PAYMENT IN FOREIGN EXCHANGE. NIDA IS TO BE NOTIFIED OF THE TERMS OF EXISTING AGREEMENTS AND ARRANGEMENTS AND FUTURE AGREEMENTS. PROVISIONS IN THE BILL ALLOW FOR PROHIBITION OF A PROPOSED AGREEMENT WHERE SUCH AGREEMENT OR ARRANGEMENT IS NOT IN THE BEST INTERESTS OF PAPUA NEW GUINEA BECAUSE OF QTE RESTRICTIVE PROVISIONS OR BECAUSE IT WOULD ARTIFICIALLY REDUCE ANY AMOUNT PAYABLE IN PAPUA NEW GUINEA. UNQTE. THERE WILL BE PENALTIES FOR SUCH ACTIVITIES IF PROVEN.

C. BESIDES COORDINATING FOREIGN INVESTMENT, NIDA ALSO HAS THE RESPONSIBILITY OF RECOMMENDING THE ESTABLISHMENT AND STRUCTURE OF GOVERNMENT CORPORATIONS FOR INDUSTRIAL PURPOSES WHEN IN THE NATIONAL INTEREST. IT WILL ALSO SUPERVISE THE OPERATIONS OF THESE CORPORATIONS. NIDA WILL BE RESPONSIBLE FOR AN INVESTMENT PROMOTION STRATEGY WHICH WILL BE THE QTE KEY LINK BETWEEN THE DRAWING UP OF INVESTMENT PRIORITIES AND THE ACTUAL ESTABLISHMENT OF A VENTURE UNQTE ACCORDING TO MR. SOMARE. IT ALSO HAS THE RESPONSIBILITY OF ADVISING THE CABINET COMMITTEE AS TO THE INCENTIVES AND CONDITIONS WHICH WOULD BE APPROPRIATE TO A PARTICULAR INVESTMENT PROPOSAL. FINALLY, IT HAS THE DUTY TO SEE THAT ALL NEGOTIATIONS BETWEEN INVESTORS AND DEPARTMENTS ARE CONSISTENT WITH THE GOVERNMENT S AIMS AND INVESTMENT GUIDELINES.

5. PRIORITIES SCHEDULE: A KEY PROVISION OF THE NIDA BILL CALLS FOR THE DEVELOPMENT OF AN ANNUAL NATIONAL INVESTMENT PRIORITIES SCHEDULE. THIS SCHEDULE WILL SPECIFY THE BUSINESSES IN WHICH NEW FOREIGN INVESTMENT IS PERMITTED AND ALSO THE BUSINESSES RESERVED FOR PAPUA NEW GUINEANS. GUIDELINES AND MINIMUM TERMS AND CONDITIONS FOR INVESTMENT IN THESE BUSINESSES, AND OTHER MATTERS, WILL ALSO BE SPECIFIED. MR. ALLEN, NIDA EXECUTIVE

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DIRECTOR, TOLD CONGEN ECON OFFICER THAT THE FIRST SCHEDULE IS EXPECTED TO BE PUBLISHED BY FEBRUARY

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6. COMMENT FOLLOWS IN SEPTTEL.
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